

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

RODNEY E. BROWN,

Plaintiff,

v.

MARIA GUTIERREZ, et al.,

Defendants.

No. 1:20-cv-00245-DAD-EPG (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS

(Doc. Nos. 1, 13)

Plaintiff Rodney E. Brown is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 2, 2020, the then-assigned magistrate judge screened plaintiff's complaint and found that plaintiff failed to state a cognizable claim upon which relief may be granted. (Doc. No. 8.) Plaintiff was provided with the applicable legal standards, mailed an amended civil rights complaint form, and directed to file an amended complaint within thirty (30) days of the order. (*Id.* at 9.) Plaintiff was also warned that if he failed to file an amended complaint as directed in the screening order, the then-assigned magistrate judge would recommend his action be dismissed. (*Id.* at 10.) Plaintiff failed to file an amended complaint; instead, on April 27, 2020, plaintiff filed objections to the screening order. (Doc. No. 12.)

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1       On June 25, 2020, the assigned magistrate judge issued findings and recommendations,  
2 recommending that this action be dismissed due to plaintiff's failure to state a cognizable claim  
3 upon which relief may be granted. (Doc. No. 13.) Following the granting of an extension of time  
4 in which to do so, plaintiff timely filed objections on August 14, 2020.<sup>1</sup> (Doc. No. 16.)

5       In his objections, plaintiff argues that the previously-assigned magistrate violated the  
6 Federal Rules of Civil Procedure, intentionally misunderstood plaintiff's factual allegations, and  
7 screened plaintiff's suit in a discriminatory and arbitrary fashion because it appeared to plaintiff  
8 "as if [the assigned magistrate judge] was aiming to cause the lawsuit to fail deliberately." (*Id.* at  
9 1, 4.) Plaintiff also takes issue with the fact the previously assigned magistrate judge did not "re-  
10 screen" plaintiff's complaint when plaintiff requested that the magistrate judge do so and because  
11 plaintiff was not given an opportunity to amend. (*Id.* at 2–3.)

12      A review of the record reveals that plaintiff's inflammatory characterizations of the  
13 actions taken by the previously assigned magistrate judge are completely without merit. Plaintiff  
14 was afforded two opportunities to amend his complaint, in the initial screening order (Doc. No. 8)  
15 and in the pending findings and recommendations (Doc. No. 13 at 18, n.4); but plaintiff chose not  
16 to do so, instead choosing to level unfounded personal attacks at the magistrate judge overseeing  
17 his case. Moreover, plaintiff does not explain how he would cure the deficiencies in his  
18 complaint identified by the pending findings and recommendations, which determined plaintiff's  
19 Eighth Amendment retaliation claim was unsupported by any alleged connection between  
20 plaintiff's filing of an inmate grievance and his being denied parole. (*Id.* at 17.) Because  
21 petitioner's pending objections are unpersuasive and the analysis set forth in the pending findings  
22 and recommendations are supported by both the record and the law, the court will adopt the  
23 pending findings and recommendations in full.

24      In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this court has conducted a  
25 *de novo* review of the case. Having carefully reviewed the entire file, including plaintiff's  
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<sup>1</sup> On that same day, plaintiff also filed a notice of appeal. (Doc. No. 17.) The Ninth Circuit later  
28 dismissed that appeal for lack of jurisdiction, noting that a magistrate judge's findings and  
recommendations are not appealable. (Doc. Nos. 20, 21.)

objections, the court concludes that the magistrate judge's findings and recommendations are supported by the record and by proper analysis.

Accordingly,

1. The findings and recommendations issued on June 25, 2020 (Doc. No. 13), are adopted in full;
  2. This action is dismissed, with prejudice, due to plaintiff's failure to state a cognizable claim upon which relief may be granted; and
  3. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: March 11, 2021

Dale A. Troyd

**UNITED STATES DISTRICT JUDGE**